



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Kevin P. BAKER, et al.

Application Serial No. 10/015,499

Filed: December 11, 2001

For: PRO1788 POLYPEPTIDES

) Examiner: Hayes, Robert Clinton

) Art Unit: 1647

) Confirmation No. 6886

) Attorney's Docket No. 39780-2830 P1C42

) Customer No. 35489

See applied only

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ON APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANTS' BRIEF

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Dear Sir:

On May 10, 2005, the Examiner made a final rejection to pending Claims 28-35 and 38-40. A Notice of Appeal was filed on October 11, 2005.

Appellants hereby appeal to the Board of Patent Appeals and Interferences from the last decision of the Examiner.

The following constitutes Appellants' Brief on Appeal.

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reconsideration and reversal of the written description rejection of Claims 28-32 and 39-40 under 35 U.S.C. §112, first paragraph.

CONCLUSION

For the reasons given above, Appellants submit that the specification discloses at least one patentable utility for the PRO1788 polypeptides of Claims 28-35 and 38-40, and that one of ordinary skill in the art would understand how to use the claimed polypeptides, for example in the diagnosis of colon tumors. Therefore, Claims 28-35 and 38-40 meet the requirements of 35 U.S.C. §101 and 35 U.S.C. §112, first paragraph.

Appellants further submit that Claims 28-33 and 39-40 meet the written description requirement of 35 U.S.C. §112, first paragraph.

Accordingly, reversal of all the rejections of Claims 28-35 and 38-40 is respectfully requested.

Please charge any additional fees, including fees for additional extension of time, or credit overpayment to Deposit Account No. 08-1641 (referencing Attorney's Docket No. 39780-2830 P1C42).

Respectfully submitted,

Date: January 11, 2006

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